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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,774	03/29/2001	Michael S. Dashefsky	VITLCOM.065A	5512
7590 Joseph D. Kuborn ANDRUS, SCEALS, STARKE & SAWALL 100 East Wisconsin Avenue, Suite 1100 Milwaukee,, WI 53202			EXAMINER GRAHAM, CLEMENT B	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/821,774

Applicant(s)

DASHEFSKY ET AL.

Examiner

Clement B. Graham

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19, 21-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Claim Rejections - 35 USC § 103

1. Claims 1-3, 5-19, and 21-22, remained pending.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negated by the manner in which the invention was made.
3. Claims 1-3, 5-19, 21-22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway US Patent No 5, 732, 401 in view of Schneiderman US Patent No 5, 508, 912.

As per claims 1, Conway discloses a method of assessing patient flow through care units of a hospital ("i. e, caregiver") using a computer having a microprocessor comprising:

method of assessing patient flow through care units of a

hospital using a computer having a microprocessor comprising:

collecting a set of hospital data the set of hospital data including a set of hospital statistics, a set of hospital factual information and a set of hospital macro data.

assigning an hourly cost to each care unit for each patient based upon the set of collected hospital data, building a model based upon the collected set of hospital data and the assigned hourly cost, .(Note abstract see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67) building a model based upon the collected data and hourly cost.(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

Conway fail to explicitly teach simulating the flow of patients through the hospital using the model, wherein the simulating step utilizes the collected set of hospital data, and using the model and the results of the simulating step to recommend hospital resource changes.

However Schneiderman discloses computerized medical database system for the standardized recording and tracking of out patient care by the simulation through

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existing software of multiple facets of a typical primary care clinical environment.

Such a database, with its integrated set of related files of both types, then serves as the informational base for the processing operations conducted by a separate set of computer programs (other than the data entry ones) that are designed to simulate or mimic aspects or conditions of out-patient medicine. With such distinct and 'logical views' that create special facets of out-patient clinical medicine drawn by such programs that now process that centralized pool of integrated clinical data stored in separate files, it becomes possible to apply precise and large-scale analysis uniformly from an outcome based perspective while also being able to look at what doctor did what and for what reason. Under uniform and standardized conditions you can now analyze clinical results about any number of out patients from both the same diagnostic group or make comparative results between different diagnostic groups. And you can establish a level of priority in the analysis of results and resource usage that includes a measure of expectation by the selective processing of different diagnostic groups or out-patients within any group that differ by chronic diagnosis. (note abstract and see claim 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Conway to include simulating the flow of patients through the hospital using the model, wherein the simulating step utilizes the collected set of hospital data, and using the model and the results of the simulating step to recommend hospital resource changes taught by Schneiderman in order to simulate traffic patterns and provide resource recommendations.

As per claim 2, Conway discloses wherein each care unit is a hospital department. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 3, Conway discloses further comprising using the model to estimate a cost savings that results from a purchase of patient monitoring equipment. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

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As per claim 5, Conway discloses further comprising identifying a bottleneck in the flow of patients through the hospital. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 6, Conway discloses where collecting data further comprises locating patients through a patient locating system. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 7, Conway discloses wherein collecting data further comprises locating patients through a patient locating system. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 8, Conway discloses wherein collecting real-time data comprises using a patient locating system. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 9, Conway discloses wherein collecting real-time data comprises using an equipment locating system. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 10, Conway discloses wherein collecting real-time data comprises using an Admission Discharge Transmission System. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 11, Conway discloses wherein collecting real-time data comprises using a point of care system. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 12, Conway discloses further comprising predicting a bottleneck in the flow of patients through the hospital through the use of the model. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 13, Conway discloses wherein the collected data comprises data regarding average patient length of stay in a care unit. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 14, Conway discloses further comprising determining alternative patient flow routes based upon optimizing efficiency of the hospital. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 15, Conway discloses further comprising determining resource utilization based upon the model. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 16, Conway discloses a computer system for modeling patient flow through care units of a hospital comprising:  
a collection module configured to accept a set of hospital data, the set of hospital data including a set of hospital statistics, a set of hospital factual information and a set of hospital macro data.(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67) an assignment module configured to assign an hourly cost to each unit for each patient based upon the set of collected hospital data;  
a model module configured to build a model of the flow of patients through the hospital, the model based upon the set of collected hospital data and the assigned hourly cost;  
a simulation module configured to simulate the flow of patients through the hospital .(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

Conway fail to explicitly teach wherein the simulation module utilizes the set of hospital data; and a resource module configured to determine a resource utilization of the hospital by utilizing the model and the output of the simulation module.

However Schneiderman discloses computerized medical database system for the standardized recording and tracking of out patient care by the simulation through existing software of multiple facets of a typical primary care clinical environment.

Such a database, with its integrated set of related files of both types, then serves as the informational base for the processing operations conducted by a separate set of computer programs (other than the data entry ones) that are designed to simulate or mimic aspects or conditions of out-patient medicine. With such distinct and 'logical views' that create special facets of out-patient clinical medicine drawn by such programs that now process that centralized pool of integrated clinical data stored in separate files, it becomes possible to apply precise and large-scale analysis uniformly from an outcome based perspective while also being able to look at what doctor did what and for what reason. Under uniform and standardized conditions you can now analyze clinical results about any number of out patients from both the same diagnostic

group or make comparative results between different diagnostic groups. And you can establish a level of priority in the analysis of results and resource usage that includes a measure of expectation by the selective processing of different diagnostic groups or out-patients within any group that differ by chronic diagnosis. (note abstract and see claim 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Conway to include wherein the simulation module utilizes the set of hospital data; and a resource module configured to determine a resource utilization of the hospital by utilizing the model and the output of the simulation module taught by Schneiderman in order to simulate traffic patterns and provide resource recommendations.

As per claim 17, Conway discloses further comprising an estimation module configured to estimate a cost savings that would result from a purchase of patient monitoring equipment. (see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 18, Conway discloses further comprising an prediction module configured to predict a bottleneck in the flow of patients.(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 19, Conway discloses further comprising an identification module configured to identify a bottleneck in the flow of patients.(see column 5 lines 5-65).

As per claim 21, Conway discloses wherein the collection module is further configured to collect real-time hospital statistics.(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

As per claim 22, Conway discloses wherein the care units include at least the following hospital departments: Admitting, Intensive Care Unit, Surgery and Discharge.(see column 10 lines 3-20 and column 2 line 34-45 and column 2 lines 24-67).

**Conclusion**  
**RESPONSE TO ARGUMENTS**

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4. Applicant's argument's filed 6/25/2007 has been fully considered but they are moot in view of new grounds of rejection.

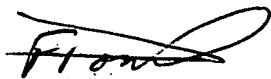
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 703-305-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

AUG 29, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
*AU 3692*